THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.23386 OF 1995

DATED: 25-01-2007

Between:

Manda Dasu and another

.. Petitioners

and

The Authority under Minimum Wages Act and Labour Officer, Khammam and another

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.23386 OF 1995

ORDER:

This writ petition is filed seeking a certiorari to quash the orders passed by the 1st respondent in M.W.No.156 of 1994 and M.W.No.155 of 1994 dated 08-08-1995 as arbitrary and illegal.

According to the petitioners 1 and 2, they worked as Gas Cylinder Delivery Boys under the 2nd respondent for a period extending over six to seven years initially on daily wages at the rate of Rs.10/- per day and thereafter on monthly wages at the rate of Rs.300/- and Rs.400/- respectively and finally at Rs.500/- per month which was far less than the minimum wages fixed by the Government. Therefore, they filed claim petitions under Section 20 of the Minimum Wages Act (for short 'the Act') before the 1st respondent-Authority claiming the difference between the minimum wages fixed by the Government and the actual wages paid to them by the 2nd respondent. However, the said claim petitions were dismissed. Aggrieved by the same, this writ petition is filed.

The learned counsel for the petitioners Sri Dhonday Ram Mane strenuously contended that the Authority is supposed to examine as to whether the G.Os. issued from time to time by the Government are applicable to the petitioners or not. Whether they are on daily wage basis or on monthly wage basis, it is not relevant for the purpose of

consideration in this case. The case of the petitioners was rejected only on the ground that they are daily wage workers and no appointment orders were given to them. Whereas, the learned counsel for the respondents supported the orders passed by the Authority and stated that the Authority has not committed any error calling for interference of this Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned orders and other material available on record.

I am in full agreement with the submissions made by the learned counsel for the petitioners that the applications filed by the petitioners ought not to have been dismissed on the ground that they are working on daily wage basis and that they have not produced any appointment orders. Expecting appointment orders in such nature of employment is unusual. The respondents have not denied engaging the petitioners as Gas Cylinder Delivery Boys and also have not denied the salary of Rs.500/- being paid to each of them every month. Under these circumstances, the Authority below recorded its findings that the applicants produced no appointment orders nor they brought to the notice of the Labour Inspector who periodically visits the Company about the non-payment of minimum wages to them and, therefore, the applications are liable to be dismissed. It is unfortunate that such findings are recorded. In a case of this nature, once the employment is not in dispute whether it is on daily wage basis or on monthly wage basis, the only aspect required to

be examined by the Authority under the Act is whether such an employment has been notified under the provisions of the Minimum Wages Act and any wages are fixed against the same. In this case, the petitioners have categorically asserted that the minimum wages as fixed by the Government were not being paid to them.

Under these circumstances, I am of the opinion that the findings recorded by the Authority below are irrelevant and perverse and, therefore, liable to be set aside.

Accordingly, the impugned orders of the Authority below are set aside and the matter is remanded to the 1st respondent-Authority under the Minimum Wages Act-cum-Labour Officer, Khammam for fresh consideration of the matter. The Authority shall issue notices to the petitioners and hear them and pass appropriate orders as per law, after examining the G.Os. issued in this regard from time to time by the Government and particularly for the relevant period i.e. from 01.10.1991 to 03.06.1994. The Authority shall dispose of the matter afresh after recording evidence, if any necessary, within a period of three months from the date of receipt of a copy of this order and communicate the same to the petitioners.

With the above directions, the writ petition is disposed of. There shall be no order as to costs.

C.V. RAMULU, J

25th January 2007.
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